

**ASSEMBLY STANDING COMMITTEE
LANDS AND RESOURCES COMMITTEE
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

February 4, 2019, 5:00 PM.

Assembly Chambers

I. ROLL CALL

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

- A. January 14, 2019 Draft Minutes

IV. PUBLIC PARTICIPATION

(Not to exceed a total of 10 minutes nor more than 2 minutes for any individual).

V. AGENDA TOPICS

- A. Chicken Yard Park
- B. Ownership of Historic Cemeteries in Douglas

VI. STAFF REPORTS

VII. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

VIII. SUPPLEMENTAL MATERIALS - RED FOLDER ITEM

- A. February 4, 2019 Presentation

IX. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 72 hours prior to any meeting so arrangements can be made to have a sign language interpreter present or an audiotape containing the Assembly's agenda made available. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org

**ASSEMBLY STANDING COMMITTEE MINUTES
LANDS AND RESOURCES COMMITTEE
THE CITY AND BOROUGH OF JUNEAU, ALASKA
MINUTES**

January 14, 2019 5:00 P.M.
City Hall, Assembly Chambers

I. ROLL CALL

Chair Mary Becker called the meeting to order at 5:00 pm.

A. Welcome and introduction to Roxie Duckworth

Members Present: Mary Becker, Chair; Wade Bryson; Maria Gladziszewski

Members Absent: Michelle Hale

Liaisons Present: Chris Mertl, Parks & Recreation; Paul Voelckers, Planning Commission; Weston Eiler, Docks and Harbors

Other Assembly Members Present: Loren Jones

Staff Present: Greg Chaney, Lands Manager; Dan Bleidorn, Deputy Lands Manager; Roxie Duckworth, Lands & Resources Specialist

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

The November 19, 2018 minutes were approved as written.

IV. PUBLIC PARTICIPATION

There was no public participation on non-agenda items.

V. AGENDA TOPICS

A. Vertical Bridge Lease Amendment

Mr. Bleidorn discussed the request from Vertical Bridge Holdings LLC to amend the existing ACS Wireless, Inc. communications site lease from 2012. They are requesting an additional 144 square feet to accommodate a new sublease on the tower for the sublessee's ground equipment. This tower is located at the reservoir site on Douglas, on Blueberry Hill, near the snowmobile parking. This amended lease will also update the contact information, which currently states ACS. Vertical Bridge purchased the tower from ACS in 2017. There is an existing fence included in the amending proposal, in which it was recommended through the Engineering and Public Works Department to accommodate the additional square footage by moving the fence out, so that the additional area will be within the fenced area but not closer to the reservoir. This recommendation was suggested to keep as much distance as possible between the equipment and the municipal reservoir for maintenance and snow removal.

The amended lease will also update current CBJ contact information. The amendment will also update the lease rate, in which every year there is an increase of 3% per year, with an appraisal every 5 years. The appraisal has just been completed, which will reflect an increase with the

base rent and add an additional 5 year term to the lease to accommodate additional equipment and extra term to allow for the amortization costs of the new equipment and sublease infrastructure. The CBJ will receive 30% of the revenue for this additional sublease on the tower. Mr. Bleidorn recommends that the Lands Committee pass a motion of support to amend the revenue lease for the ACS Wireless/Vertical Bridge and to accommodate an additional sublessee.

Mr. Bryson inquired on what the 30% revenue roughly equals in dollars.

Mr. Bleidorn informed the Committee that Lands does not have that information yet, but prior to signing a lease amendment they (Vertical) will provide Lands with their lease with a new sublessee, which is believed to be Dish Network. This will be signed with an appraisal, with a copy provided with the sublease, based on fair market value.

Mr. Bryson responded with a follow up question in regards to the 30% of revenue created, whether that would be on the tower or on the sublease.

Mr. Bleidorn replied that the overall lease rate includes the additional sublease rate of the tower. The City already receives fair market value of the land that it owns and will receive 30% of the tower lease space from what the company owns and as part of the cost sharing that the City has negotiated to include 30% of the sublease.

Mr. Mertl inquired as to what will occur on the additional 144 square feet that is requested with the sublease. Mr. Bleidorn referred to a projected diagram showing the site plan and replied that they are going to add ground equipment that will connect with the tower equipment that will be placed on the tower and to also include a small generator. Mr. Mertl followed up inquiring if everything is ground based with no additional antenna or tower associated with this lease. Mr. Bleidorn replied that no additional tower, but on the tower itself there is going to be small dish-like equipment, using the existing structure. The tower itself can have three or four subleases on it. This is going to use a small fraction of the tower itself.

Mr. Mertl inquired if the City has ordinances or regulations associated with towers, their height, impacts to aesthetics, and their distances to neighborhoods? Mr. Bleidorn responded that the City does. He also noted that there was another tower that came to the Lands Committee in 2018, making its way through the Planning Department and Planning Commission, requesting to be located out by Lena, off of Merganser Road. Mr. Voelckers also responded that the Planning Commission did a comprehensive rewrite of cell tower ordinances. Mr. Voelckers wanted to note that the power and communications conduit that feeds the new lease actually exits the leased property and comes back into the controlled property, which, as a minimum, might need right away for utility crossing; a minor thing to be aware of. Mr. Bleidorn thanked Mr. Voelckers and made a note of the possible issue.

Chair Becker inquired if there are already three other leases or is there space for three leases.

Mr. Bleidorn responded that this would be the first sublease, not second for this tower.

Ms. Gladishowski – moved to recommend to pass a motion to amend the lease to accommodate the additional sublease.

Motion Passed Unanimously.

Mr. Chaney wanted to clarify the different roles between the Community Development Department (CDD) and Lands Division with the City. CDD does oversee a series of regulations

about installation of towers both on City land and private property. Lands does not enforce or enact those rules but follows what is directed by CDD.

B. South Lena Subdivision Land Sale

Mr. Chaney provided background on the Lena Lots, which were set aside initially for an eagle nest in the area. The nest has since disappeared, which was foreseen by the Planning Commission at the time the original plat was recorded. The lot has been subdivided into four, roughly equal lots with uniform grade, similar style, and a road either at the top or bottom of the lots, which are fairly easy to build on and have been approved to be subdivided. He requested a motion of support to the Assembly for disposal of these lots; these will be the last four lots in the Lena area for some time. Before another lot sale can be done in this area there would be a significant public process and subdivision. Lands is planning to offer the lots by sealed competitive bid as has been done with all of the other Lena lot sales.

Chair Becker called for questions.

Mr. Voelckers inquired about drainage, if there will be a culvert installed or to allow for a future provision for the culvert. Mr. Chaney responded that right now there is a culvert under the road and a drainage easement has been set aside. The City would not build the drainage improvements. Once someone has decided to develop a lot they would install the drainage infrastructure at that time. These are guidelines for future development.

Ms. Gladishowski moved that the Lands Committee pass this to the Assembly, with support of the Lands Committee.

Chair Becker called for objections and hearing none, she followed up with a question; "What would be the minimum bid for the lots?" Mr. Chaney responded that the bid would be established by appraisal.

Motion Passed Unanimously

VI. STAFF REPORTS

A. Lands Division Overview

Mr. Chaney presented a Lands & Resources Division overview which covered the following:

- Overview of CBJ's Gravel Pits and Quarry Operations

The City provides quite a bit of material for construction through this program and is important to the community. As such, an overview of this program can bring awareness. The star performer in the City's portfolio of rock material sources is Stabler quarry. It is located just above the ferry terminal. One unique quality about Stabler is that its base is in a hollow, which allows for sound to be reflected up into the air and does not radiate outward very much. Recently the quarry limits were expanded with roughly twice the area but that represents more than twice the material as blasting can go downward.

Mr. Chaney included short videos of the quarries, in which he highlighted the traffic cones in one video in that there was no jiggling, which is a carefully planned shot so that the rock goes into a nice pile, with the idea to keep material in the quarry. Blasting is conducted by

contractors who blast and process the rock and sell the material while the City only sells the base rock in the ground (the raw material).

Other quarries owned by the City include the Lower Fish Creek quarry, which is just off of the road to Eaglecrest. Another quarry in this area is the Upper Fish Creek quarry, which is small in size, off of Fish Creek road, and mostly used by Eaglecrest ski area.

An importance aspect to quarries are their location in proximity to a project. The closer they are to the project the less it costs to get the material from the quarry to the project; i.e. trucking costs, which can triple the costs of the rock.

There is a private quarry near Hidden Valley in Lemon Creek, which does not have as high quality material but it works well for bulk fill. The City shares the haul road and has a joint road maintenance agreement with Secon who is operating the quarry.

Gravel pits are more valuable in many ways than hard rock quarries and are not the same. The material in gravel pits are sorted and deposited by nature, usually from alluvial fans from an ancient river delta. CBJ has two gravel pits, one is behind Home Depot and Costco in an industrial zoned area. The area is behind Costco and is being mined slowly, as the quality of the material is not as high. This quarry will at some point cease and the land will be used for industrial use. There is a proposal for a compost program, which is a proposed industrial use for this location. There are limitations on this property; no water or sewer supply and limited electrical supply, which will take effort for development.

Ms. Gladishowski inquired about the location of the property, which Mr. Chaney clarified with his slides. Mr. Chaney further explained that alluvial deposits can be valuable if one does not care about sorting, you can scoop up and put in truck.

Mr. Chaney further noted that gravel pits are limited resources, once the material is scooped up, it is gone. Hard rock, in comparison, is all around Juneau, but its location can cause difficulty and the operation can create, such as noise, dust, and truck traffic. Water quality and treatment is important for all gravel pits quarries.

Other CBJ gravel pits include another new gravel pit that is located across Lemon Creek behind the correctional facility. This site known as the North Lemon Creek materials source is similar to the other deposits in the Lemon Creek area. There may be hard rock in this area with potential for excavation. Old gravel pits owned by the CBJ and the private sector (examples highlighted in the slides), can be valuable locations to put stumps when no longer needed but stump dumps can be hard to build on because of settling. But development is possible if pilings are used for a foundation. When building Pioneer Road, we had hard rock locally available in quarries created during the construction.

Mr. Chaney stated that, those are the high points, general contractors conduct the work on the ground and the City manages the areas. Mr. Chaney asked for questions?

Ms. Gladishowski inquired if the contractors are able to use all the rock from a blast. Mr. Chaney responded that they are pretty good with how they blast.

Mr. Mertl inquired if there something coming down the pipeline we need to be aware of and this is a heads up? Mr. Chaney replied that quarries have many different issues. Running quarries can be dangerous and are overseen by MSHA, the mining safety organization. We work with multiple contractors that have multiple ideas and do not always stand in agreement. One main reason CBJ operates quarries is to keep a steady supply of affordable material for our

construction projects. If all of our quarries are sold to private sector than prices can get set very high, we have seen that with asphalt. When there has only been one asphalt supplier, the cost goes up. We sell quarry material primarily for City projects and make some rock available for private projects. But this isn't generally the case for gravel, it is reserved for City public projects as it is a finite resource.

Mr. Voelckers wanted to follow up on that point, with Stabler being an essentially an unlimited supply of rock, does the City's pit at Lemon Creek hold the same potential or what is the future project and does the City have enough gravel resources for the near term. Mr. Chaney replied that one never knows what the next project will be. For example, Douglas harbor was a project that was dredged and had to be capped along with quite of bit of sand that went to the bottom of the harbor. Stabler has an estimated 20 year supply into the future for material and there is probably enough gravel in the Lemon Creek region to meet near term needs. In addition, the active bed of Lemon Creek has some supply, but the bed of Lemon Creek is privately owned and has been mined privately and separate from the Lands Division, which has no involvement.

Mr. Bryson inquired as to what the area by Home Depot/Costco was referred to. Mr. Chaney replied that it is known as the Lemon Creek material source. Mr. Bryson inquired if it is anticipated that once we remove all of usable material, then will this become industrial land? Mr. Chaney replied yes, that was the intention. Mr. Bryson followed up asking if there are other areas that are being looked at that could be a material source or a small quarry that could also become an industrial land once the material has been depleted. Mr. Chaney again replied yes, that an area on Douglas Island, which has been used as a gravel source, is a potential site, but a road would need to be built to access the area. This will be long process, perhaps 30 years into the future.

Mr. Eiler proposed a hypothetical question, what was the source for the State, or the companies, that expanded to Cascade Point. Mr. Chaney replied that this was a private quarry on Goldbelt land that was operated privately. The forest service has a quarry that hasn't been used in a while that has been used by people in the Amalga Harbor area in the past ten years. Mr. Eiler followed up inquiring if there are dozens of quarries or gravel pits around the borough? Mr. Chaney responded that perhaps there are a dozen or just a handful, not dozens, which are often reused for other things. For example the Rotary Park in the valley was an old gravel pit that was used for road construction, as well as the Nancy Street pond.

Chair Becker called for any other questions. None were offered.

VII. COMMITTEE MEMBER / LIASION COMMENTS AND QUESTIONS

Mr. Eiler informed the Committee that Docks and Harbors will kick off their committee meeting next week and board meeting the week after. The Port Director and City Manager have been working on the Archipelago Project, and other projects, with extensive discussion on lease renewals at Yankee Cove. There has been a fairly extensive public testimony on Amalga harbor with comments from residents regarding bear and fish carcasses.

Mr. Voelckers let the Committee know that there has been a fair amount of public interest in Auke Bay planning. The Auke Bay neighborhood meeting will be held on Wednesday night (January 16) and will be the first of a series of meetings to discuss and implement plans.

Mr. Mertl informed the Committee that Parks and Recreation has been busy, their master plan has been completed and the PRAC has approved this document. This plan has been very well vetted, with lots of input, including public input, over the course of two years. This will now go to Assembly with the idea that this is the master plan for the next 10 years for Parks and Recreation. It is available on their website. A few other things of note, Lands took the DOT request for CBJ access permits and temporary easements for a culvert reconstruction project in Twin Lakes to the PRAC last week; the PRAC recommended approval and will next go to the Assembly. Yesterday (Sunday 1/13/19) was the PRAC's all day annual retreat and they spent time touring facilities out in the Valley and discussed visions and goals and the relationship between the PRAC and the public. Mr. Mertl inquired of staff on what are the rumors about a resort/casino on private land near Eaglecrest, if this was a Forest Service land swap, and if Lands had any information? Mr. Chaney replied that the Forest Service had interest in getting rid of Native property inholding within the Admiralty Island National Monument with a land swap for land along Fish Creek Road. As this is Native land and exempt from CBJ zoning, building codes, etc. (local oversight), so the project has proceeded without any City involvement. Mr. Mertl followed up if this was the first time the CBJ came across this. Mr. Chaney replied that there is the area in the Willoughby District, which is officially called the Indian Village. There are Federal Native properties there that have the same exemptions from local jurisdiction but are integrated into the community and rely on water and sewer, and it tends to be a less stark division from the community. Mr. Chaney indicated that he hasn't seen any development projects that didn't comply with zoning in that area. Ms. Gladishowski inquired if Lands has any documents that say this is the official Lands status. Mr. Chaney responded that would be more of a CDD function, not Lands and would rather not write anything up.

VIII. Chair Becker ADJOURNMENT

There being no further business, the meeting was adjourned at 5:42 PM.



City and Borough of Juneau
City & Borough Manager's Office
155 South Seward Street
Juneau, Alaska 99801

Telephone: 586-5240 | Facsimile: 586-5385

DATE: January 25, 2019

TO: Mary Becker, Chair Assembly Lands Committee

FROM: Rorie Watt, City Manager

RE: Chicken Yard Park

Chicken Yard Park is located on Starr Hill at the corner of Sixth Street and Kennedy Street. It is designated as a Neighborhood Park in the Parks & Recreation Department's Comprehensive Plan (1996). The playground equipment at Chicken Yard Park was installed in 1988, making it the oldest playground in Juneau's park system. Funding for a new playground and other improvements at Chicken Yard Park was approved by voters as part of the Temporary 1% Sales Tax (2012-16). The project was suspended due to longstanding concerns about motor vehicles driving through the park and playground to access a private home located at 626 Fifth Street.

The Parks & Recreation Advisory Committee received public comment on these access issues at its regular meeting on August 7, 2018. Since then, staff has met several times with Starr Hill residents, as well as the owners of 626 Fifth Street. As a result of these efforts, I believe we have identified a solution that will allow the CBJ to meet our responsibility to maintain a safe park and accommodate the owners of 626 Fifth Street. The owners have agreed to the arrangement, it is subject to Assembly approval. Terms of the agreement are:

The CBJ would:

- Construct two parking spaces at the entrance to Chicken Yard Park;
- Grant to the owners of 626 Fifth St. exclusive easement to use these parking spaces (no public parking will be provided in the park);
- Grant to the owners of 626 Fifth St. non-exclusive use of a driveway to access the parking spaces;
- Grant to the owners of 626 Fifth St. non-exclusive pedestrian access through the park to their home; and
- These all run with 626 Fifth St.
- Provide a one-time payment totaling \$5,000.

The Owners of 626 Fifth Street would:

- Disclaim all current and future interests in Lots 5 & 6 (known as Chicken Yard Park), including any claim of access through prescriptive easement. This disclaimer of interest would carry forward to all future owners of 626 Fifth St.; and
- Be responsible for all maintenance of the parking spaces.

This agreement represents a compromise where neither party gets everything they wanted. At the same time, it avoids an uncertain legal process that would prove costly for all parties. Most important, it brings peace to a contentious situation that could divide a neighborhood and the CBJ and its citizens, and allows the Parks & Recreation Department to move forward with long-overdue improvements for a cherished community park. I intend to recommend additional resources for the renovation of the park through the CIP process.

I very much appreciate the owners of 626 Fifth Street being willing to work out an agreement on this issue. It has been a long standing point of contention, all parties benefit from closure.

This item is on the agenda only for informational purposes tonight. It is additionally on the PRAC agenda for tomorrow night, again as information. I have scheduled this resolution for public hearing at the Assembly meeting on March 4, 2109.

As this proposed agreement contemplates a disposal of municipal land (agreeing that a private party can park on public land) and an acquisition (CBJ acquires disputed access rights) in accordance with Title 49 and 53, this issue will also go to the Planning Commission for recommendation and review, code citations below.

I look forward to bringing this issue to resolution.

49.10.170 (c)

City and borough land acquisitions, disposals and projects. The commission shall review and make recommendations to the assembly on land acquisitions and disposals.....

53.09.300

(a) Authorized. The manager may convey or lease an easement in City and Borough owned land upon approval by the assembly. Easements shall be nonexclusive unless otherwise provided in the easement document.

(c) Departmental and planning commission action. ...the planning department shall refer the application and departmental comments to the planning commission for its recommendation to the assembly...

(d) Assembly action. Upon receipt of the planning commission recommendation, the assembly may, by resolution, authorize the manager to execute the easement under such terms and conditions as are authorized by the assembly.

MEMORANDUM

CITY AND BOROUGH OF JUNEAU

Lands and Resources Division Office

155 S. Seward St., Juneau, Alaska 99801

Greg.Chaney@juneau.org

(907) 586-0205

TO: CBJ Assembly Lands Committee

FROM: Greg Chaney, Lands and Resources Manager

SUBJECT: Staff Review Concerning Ownership of Historic Cemeteries in Douglas

DATE: January 30, 2019

The Assembly has asked that the CBJ explore maintaining the historic cemeteries in Douglas. This document is offered as an update on the issue but since the research is not complete, no action is requested from the Lands Committee at this time. An important consideration in evaluating the results of this research is that before these cemeteries are officially accepted for maintenance, ownership of the cemeteries must be established because it is not legal for the City to spend public funds to maintain private property; as stated in the Alaska Constitution and CBJ Charter:

Alaska Constitution Art IX §6 Public Purpose

No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose.

CBJ Charter Section 9.13. - Administration of budget.

(a) No payment may be made and no obligation incurred against the municipality except in accordance with appropriations duly made. . . .

There has been controversy concerning ownership of the cemeteries in Douglas since the late 1800s. Discussions about the upkeep of the cemeteries and whether or not they were city property began as early as the 1940's and the topic has been brought to the municipal governing body (Douglas City and the City & Borough of Juneau respectively) every decade since. It is often unclear which properties/cemeteries were being discussed therefore discussion about ownership is also confusing. This document intends to highlight some of the facts and inconsistencies discovered by Lands staff, and to function as an aid to research moving forward. The next step will be to get a title report for each of these parcels.

This document uses the following names for the cemeteries in question, however it should be noted that these names have *not* been consistently used in the historical record. Legal descriptions and boundaries of these parcels remain unclear:

DOWNHILL CEMETERIES

Douglas City Cemetery (aka City Cemetery)

Portion of
2D050K010050

Eagles Cemetery

Portion of
2D050K010050

Servian Cemetery (also spelled Serbian)

Portion of
2D050K010050 and
2D04020C0040

UPHILL CEMETERIES

Catholic Cemetery (also includes some Russian Orthodox burials)

2D050D010010

Ross Estate Cemetery (Masons & Oddfellows)

2D050D010020

North Godfrey Cemetery (may contain some Oddfellows)

2D050D010030

South Godfrey Cemetery (Asian, Native may include some Catholic burials)

2D050D010040



1. Regional map showing approximate parcel lines and locations of cemeteries referenced in the document.

Cemetery Overview

Land rights in the late 1800s and early 1900s in Alaska were very different than those we have today. It is possible that surface rights were not available to claim or purchase until after Alaska became a Territory in 1912, though *mining* patents were issued. In the late 1800s W. A. Sanders, W. A. Thomson, and Minnie Ross Holman filed a mining claim that encompassed the area where historic cemeteries are located on Douglas Island. Members of Douglas City were concerned about surface rights that had already been tentatively claimed in the area and made an agreement with Sanders, Thompson, and Holman regarding surface rights for this land.

The W. A. Sanders, W. A. Thomson, and Minnie Ross Holman claim later became known as the Ross Estate. As mentioned above, the Douglas City Council was concerned about surface rights and made an agreement regarding surface rights in the area. This is a lengthy hand written document that highlights specific parcels which have not yet been identified by Lands staff, though there is anecdotal evidence that the cemetery lands were addressed in this document. This agreement may have been developed because there was no legal mechanism in place at that time to obtain ownership of federal land. Therefore, issuing a deed for the surface rights would not have been legal. It is quite likely that ownership of some, or all, of the cemeteries were not perfected because there was no incentive to clarify the legal status of inactive cemeteries. It follows, then, that through the intervening years the cemetery lands were used as cemeteries and the legal ownership was not questioned until they began to decline and the city was asked to step in to provide maintenance.

The parcels in this document appear to have been deeded to the groups listed upon Sanders et al.'s receipt of patent for the claim which was issued in 1901. No effort has been made to find the deeds that should have resulted from this agreement. In the early 1900s portions of the patent issued to Sanders, Thompson, and Holman transferred ownership and from here on the owners were referred to as the *Ross Estate*.

If any of the parcels listed in the 1899 agreement align with cemetery land it could be determined that the agreement stands in for a legal deed. If that is the case then much of the following documentation over ownership may be moot as most of it relies on the assumption that the Sanders et al. claim (now known as the Ross Estate) owned the surface rights of the cemeteries. This is unlikely however because there is a plat from 1964 which shows several cemeteries as *exceptions*, implying that this land was not part of the Ross Estate. Therefore, Lands staff believes that the surface rights to this property were never owned by the Sanders claim or the Ross Estate.

There is evidence that in 1902 Douglas City believed that they would obtain a deed to the Servian Cemetery, and that they would convey it to the Servians when they obtained title. Because there are so few documents that are older than 1937 from Douglas it could be reasonable to assume that similar agreements were made with each group that was burying their loved ones in the area. It is possible that these agreements were destroyed by one of the historic fires that occurred in Douglas. Lands staff has

not found any deed conveying the parcel to Douglas City or anyone else during this time period. Up to the 1940s there is evidence that Douglas City believed it had some sort of ownership over the cemeteries. When the question of the poor state of the cemeteries was raised in the Douglas City Council meeting in 1940 the issue was usually listed under the "Report on Public Property". In 1957 the issue was raised to the Douglas Council again and at this time the Council noted that the cemeteries were privately owned. The belief that the parcels were in private hands is echoed each decade through today.

In 1948 a letter was delivered to the Douglas City Council on behalf of Harry F. Ross of the Ross Estate. The letter outlines a protest against the high taxes levied against the land and highlights that portions of the property had "been appropriated for...cemeteries". The metes and bounds described in the document seem to include these cemeteries (there is some question about the exceptions listed). If the metes and bounds found herein are correct then the deeds referenced above were never issued and the cemeteries were owned by the Ross Estate at that time.

In the 1960's the Ross Estate sold most of its holdings in Douglas; documents in 1963 and 1964 show each transaction which eventually lead to O.T. Corp holding the deed to the estate (metes and bounds need to be verified for these transactions).

A plat of the Ross Estate was drawn in 1964 which shows a number of the cemetery parcels as "Exceptions". This is one of the most important documents in the historical record because it is the only survey showing the location and boundaries of the cemeteries that is tied to recoverable survey monuments. There is evidence of contradictory interpretations of the term "exceptions" in the following years; some documents state that these exceptions remained in the Ross Estate after the sale of the remainder of the property; while others state that the exceptions were not owned by the Ross Estate at all. After carefully reviewing this survey plat, Lands staff is currently of the opinion that the exceptions were clearly not displayed as being contained within the Ross Estate at the time this plat was recorded.

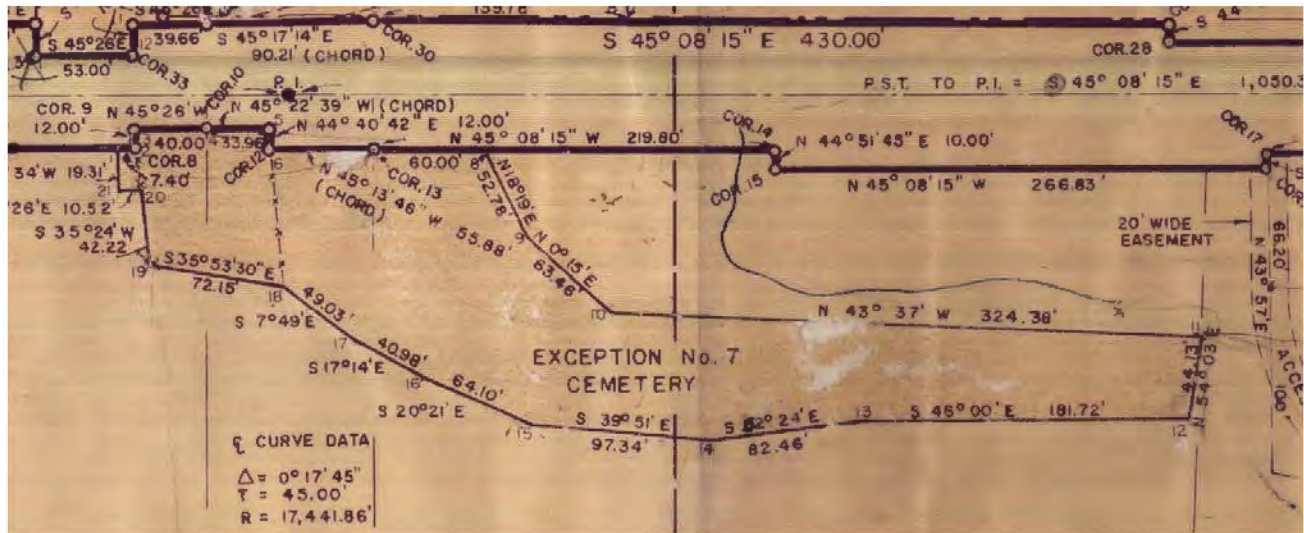
In the late 70s and early 80s the City & Borough of Juneau Assembly directed staff to obtain title for "recognized cemetery land." There is extensive documentation of Assembly requests and staff action including letters to owners of record.

In 1979 a title report was issued regarding multiple cemetery parcels. The title report lists the Ross Estate as owners excepting "possible right, title and interest of O.T. Corp." The following month the CBJ Property Officer sent a letter to the title company requesting an amended report to reflect the opinion that "title vests in O.T. Corp instead of the Ross Estate".

In 1980 the CBJ Attorney wrote a memo which states that Red Samm was the owner of the Douglas City Cemetery and the memo notes that the Attorney was actively reaching out to owners, working toward obtaining title to the property. However this activity does not appear to have been completed so the confusion about ownership remains.

Since the question of ownership of these cemeteries has been causing confusion for nearly 80 years, it is the Lands Division's intent to set the record straight but this will take some additional research and will probably lead to filing quiet title action for some of the parcels.

Below is a summary of what Lands staff has been able to uncover so far in researching the status of each property. Some of the information is redundant and in many cases the results are inconclusive. This information will be provided to a title company for further resolution.



2. Excerpt from 1964 Ross Estate plat showing Exception No 7.

Douglas City Cemetery

There is a plat from 1964 which shows the Douglas City Cemetery as Exception No. 7, implying that that land was *not* part of the Ross Estate. Based on this evidence, Lands staff believes that the surface rights to this property were not incorporated in the Sanders claim or the Ross Estate.

In 1980 the CBJ Attorney wrote a memo which states that Red Samm (Phil Godfrey's company that purchased the parcel from O.T. Corp) was the owner of the Douglas City Cemetery and that he was willing "to donate to the City the four upland cemeteries along with a strip of property surrounding the cemeteries". The memo notes that the Attorney was actively reaching out to owners, working toward obtaining title to the property.

Eagles Cemetery

The 1964 plat does not show a clear division between the Douglas City Cemetery and the Eagles Cemetery. As discussed above, the Eagles Cemetery was shown as a portion of Exception No. 7, implying that that this land was *not* part of the Ross Estate. Lands staff believes that the surface rights to this property were never owned by the Sanders claim or the Ross Estate.

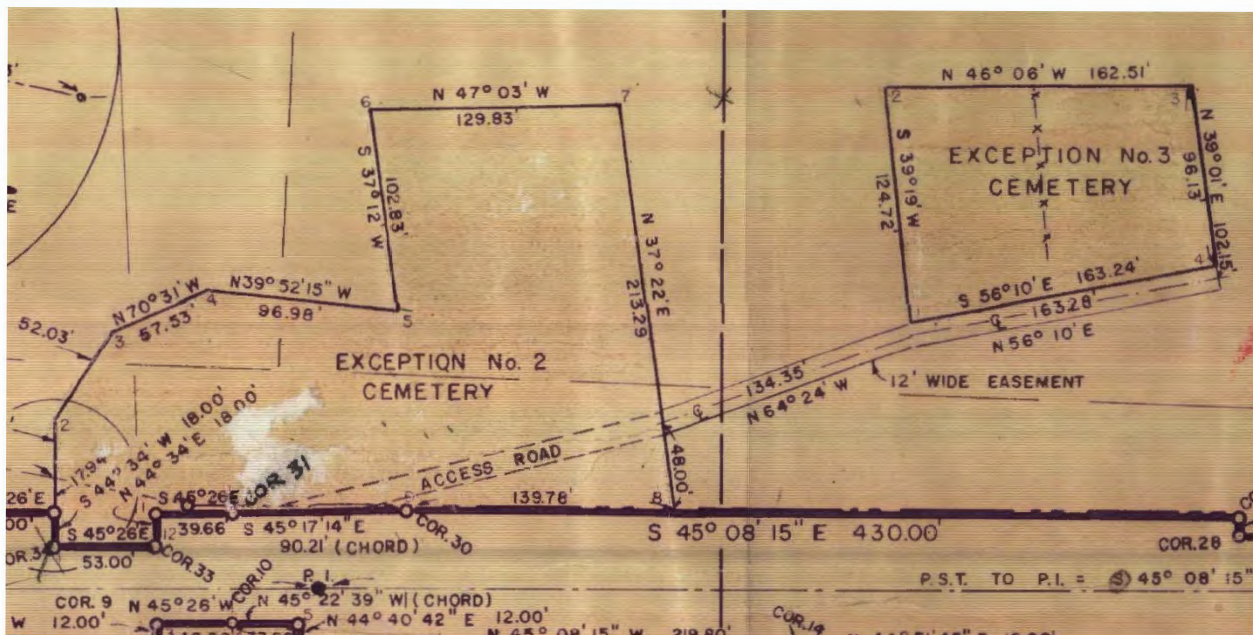
In 1980 there is evidence that the Fraternal Order of Eagles sought out a quiet title action and then deeded a portion of the cemetery to the AK DOT, Lands staff did not find evidence that the Eagles obtained title. A deed conveying title from the Trustees of Douglas, Alaska Eagles' Cemetery to Merrill A. Sanford was on record in 2018, Mr. Sanford has clearly stated that he is willing to transfer ownership to the CBJ.

Servian Cemetery (also spelled Serbian)

There is evidence that in 1902 Douglas City believed that they would obtain a deed to the Servian Cemetery, and that they would convey it to the Servians when they obtained title. Because there are so few documents that are older than 1937 from Douglas it could be reasonable to assume that similar agreements were made with each group that established cemeteries in the area.

The 1964 plat also includes a portion of the Servian Cemetery within Exception No. 7, implying that at least a portion of that land was *not* part of the Ross Estate. Lands staff believes that the surface rights to this property were never owned by the Sanders claim or the Ross Estate.

If staff's assumptions about the location of the Servian Cemetery are correct most of the property is on a privately owned developed residential lot.



3. Excerpt from 1964 Ross Estate plat showing Exceptions 2 & 3.

Catholic Cemetery (also includes Russian Orthodox burials)

The 1964 plat which shows the Catholic Cemetery as Exception No. 2, implying that that land was *not* part of the Ross Estate. Once again Lands staff believes that the surface rights to this property were never owned by the Sanders claim or the Ross Estate.

In the late 70s and early 80s the City & Borough of Juneau Assembly directed staff to obtain title for “recognized cemetery land.” There is extensive documentation of Assembly requests and staff action including letters to owners of record. At the same time O.T. Corp issued a deed to transfer ownership of the Catholic Cemetery to the Catholic Bishop, however the land was not subdivided so question arises over the cemetery boundaries and validity of this deed.

In 1979 a title report was issued regarding multiple cemetery parcels including the Catholic Cemetery. The report lists the Ross Estate as owners excepting “possible right, title and interest of O.T. Corp” and “right, title and interest of Corporation of the Catholic Bishop of Juneau.” The following month the CBJ Property Officer sent a letter to the title company requesting an amended report to reflect the opinion that “title vests in O.T. Corp instead of the Ross Estate”.

In 1980 the CBJ Attorney wrote a memo which states that Red Samm (Phil Godfrey’s company that purchased the parcel from O.T. Corp) was the owner of the Catholic Cemetery (all upland...some downhill), and that he was willing “to donate to the City the four upland cemeteries along with a strip of property surrounding the cemeteries”. The memo notes that the Planning Commission encouraged the donation of this parcel to the City, the fact that it had been incorrectly deeded to the Catholic Bishop, and the fact that a subdivision was needed before the properties could be conveyed. Later that year the Planning Commission approved a plat waiver to subdivide the four uphill cemetery tracts from the larger parcel and convey the land to the CBJ “for cemetery purposes”. It should be noted that in a meeting that year, the Assembly stated that “it is not the intent of the Assembly to remove the Catholic cemetery from Catholic ownership if maintenance was to be provided”.

The City Manager sent a letter to Phil Godfrey in 1983 thanking Mr. Godfrey for the 1.6 acres donated for cemetery, though it is *unclear which parcels these acres include*.

Ross Estate Cemetery (aka Masons & Odd Fellows)

Ross Estate Cemetery incorporates the historic cemeteries founded by the fraternal organizations of the Masons and the Odd Fellows. This area was included in Exception No. 3 in the 1964 plat. This strongly implies that that land was *not* part of the Ross Estate. Therefore, in spite of the name, Lands staff believes that the surface rights to this property were never owned by the Sanders claim or the Ross Estate.

In the late 70s and early 80s the City & Borough of Juneau Assembly directed staff to obtain title for “recognized cemetery land.” In 1980 O.T. Corp sold the uphill property (metes and bounds should be verified) to Phil Godfrey (and partner, they are sometimes referred to as Red Samm, Red Sam, or just Phil Godfrey) who applied to establish a rock quarry on a portion of the property. The Planning Commission added a requirement “that the boundaries of the cemeteries along Douglas Highway be straightened and that this land be deeded to the City” this implies that Godfrey owned title to these properties. While it was later clarified that this was not a legal requirement it seems clear that Godfrey was more than willing to deed his cemeteries to the City which he officially did in 2000. Also in 1980 the

Planning Commission approved a plat waiver to subdivide the uphill portions of the cemetery and convey them to the CBJ.

In 1980 the CBJ Attorney wrote a memo which states that Red Samm (Phil Godfrey's company that purchased the parcel from O.T. Corp) was the owner of the Ross Estate Cemetery (all upland...some downhill) and that he was willing "to donate to the City the four upland cemeteries along with a strip of property surrounding the cemeteries". The memo notes that the Planning Commission encouraged the donation of this parcel to the City and that Mr. Godfrey was amenable to this idea.

Confusion over ownership comes up in title reports in 1985 and in 1993. In a 2001 email exchange CBJ staff state that the property is owned by the Ross Estate but believe that the property could be easily acquired, probably through a quiet title action. In 2001 the issue of the Ross Estate Cemetery was brought before the CBJ Lands Committee which unanimously directed staff to "continue research on the Ross Estate and inquire about the acquisition of the parcels. If we could not find anyone with the Ross Estate, the CBJ could lay claim to the parcel and then maintain it at a minimal level". It is not apparent that any further work was done towards this end and a 2011 title report states that the parcel is still owned by the Ross Estate though it is Lands staff's belief that this parcel was an exception from the Ross Estate.

North Godfrey Cemetery (may include some Odd Fellows Cemetery)

The North Godfrey Cemetery is not listed as an exception on the 1964 plat. Because of this, Lands staff believes that the parcel was part of the original Ross Estate lawfully owned by Phil Godfrey when he deeded it to the City in 2000. In 1964 this lot is bisected by a 12' access easement which appears to provide access to the area depicted as Exception #3. Although the North Godfrey Cemetery property does provide access to the Odd Fellows and Masons Cemeteries, it is not clear if there were burials present on this lot. It is possible that some Odd Fellows or other unrecorded graves are on this property.

In the late 70s and early 80s the City & Borough of Juneau Assembly directed staff to obtain title for "recognized cemetery land." There is extensive documentation of Assembly requests and staff action including letters to owners of record. In 1980 O.T. Corp sold the uphill property (metes and bounds should be verified) to Phil Godfrey (and partner, they are sometimes referred to as Red Samm, Red Sam, or just Phil Godfrey) who applied to establish a rock quarry on a portion of the property in 1980. The Planning Commission added a requirement "that the boundaries of the cemeteries along Douglas Highway be straightened and that this land be deeded to the City" this implies that Godfrey owned title to these properties. While it was later clarified that this was *not* a legal requirement it seems clear that Godfrey was more than willing to deed his cemeteries to the City which he officially did in 2000. Also in 1980 the Planning Commission approved a plat waiver to subdivide the uphill portions of the cemetery and convey them to the CBJ.

Once again, confusion over ownership comes up in 1985 and 1993 title reports, and in the late 90s and early 2000s which led to the deed of the cemetery property from Godfrey in 2000, though in 1993 the

City Attorney stated that the CBJ had already accepted the “two tracts of land”. In a 2001 memo it seems that CBJ staff acknowledged that these lots are owned by the city and were receiving a “lack of care” but which lots the memo refers to is a little unclear.

South Godfrey Cemetery (may include Asian, Native & some Catholics)

The South Godfrey Cemetery is mainly composed of the historic Asian, Native & potentially some Catholic burials. This area is not listed as an exception on the 1964 plat. Because of this Lands staff believes that the parcel was lawfully owned by Phil Godfrey when he deeded it to the City in 2000.

In the late 70s and early 80s the City & Borough of Juneau Assembly directed staff to obtain title for “recognized cemetery land.” There is extensive documentation in the 1970’s of Assembly requests and staff action including letters to owners of record. In 1980 O.T. Corp sold the uphill property (metes and bounds should be verified) to Phil Godfrey (and partner, they are sometimes referred to as Red Samm, Red Sam, or just Phil Godfrey) who applied to establish a rock quarry on a portion of the property. The Planning Commission added a requirement “that the boundaries of the cemeteries along Douglas Highway be straightened and that this land be deeded to the City” this implies that Godfrey owned title to these properties. While it was later clarified that this was not a legal requirement it seems clear that Godfrey was more than willing to deed his cemeteries to the City which he officially did in 2000. Also in 1980 the Planning Commission approved a plat waiver to subdivide the uphill portions of the cemetery and convey them to the CBJ.

Confusion over ownership comes up in title reports from 1985 and 1993 (metes and bounds needed), and in the late 1990s and early 2000s which led to the deed of the cemetery property from Godfrey in 2000, though in 1993 the City Attorney stated that the CBJ had already accepted the “two tracts of land”. In a 2001 memo it seems that CBJ staff acknowledged that these lots are owned by the CBJ and were receiving a “lack of care”.

February 4 2019

CBJ Assembly Lands Committee



Chicken Yard Park







Overview Ownership of Historic Cemeteries In Douglas



Alaska Constitution Art IX §6 Public Purpose

- **No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose.**

CBJ Charter Section 9.13. - Administration of budget

- **No payment may be made and no obligation incurred against the municipality except in accordance with appropriations duly made. . . .**



Bridge

Lawson Creek

Douglas

This Agreement entered into
 This 8th day of August, 1899, between W. A.
 Sanders for himself and co-claimants W. A.
 Thompson and Minnie Ross Holman of the
 town of Juneau, Alaska, the parties of the
 first part, and

P. H. Foy, C. N. Replogle, and
 William C. Boyd, a committee representing
 themselves and the persons hereinafter
 named, and the town of Douglas City, Alaska,
 claiming to own the surface ground of the
 several lots of land, situated upon the
 Enterprise and Ready Buccion No. 2, lode
 claims, U.S. Survey No. 341, A-B., more particularly
 hereinafter and herein set forth, the parties
 of the second part;

Witnesseth, That the parties
 of the first part, the owners of the said Enterprise
 lode claim and the Ready Buccion No. 2 lode

...a committee representing themselves and the persons herein after named, and the town of Douglas City, Alaska, claiming to own the surface ground ... Upon the issuance of a United States Patent to said parties of the first part, ...for the surface rights claimed by the respective parties payment for such said deeds or instrument shall be a condition of the delivery by said parties ...

LAWSON C

Catholic
Cemetery

Odd Fellows
Cemetery

Masons
Cemetery

Russian
Orthodox
Cemetery

Service Road

Asian
Cemetery

Native
Cemetery

DOUGLAS HIGHWAY

Servian
Cemetery

Eagles
Cemetery

City
Cemetery

OLD LAWSON

3

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TR. A

TR. B

TR. C

77-668

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DOUGLAS ISLAND

TRACT 142 S

TRACT No. 2

CASTINEAU

CHANNEL

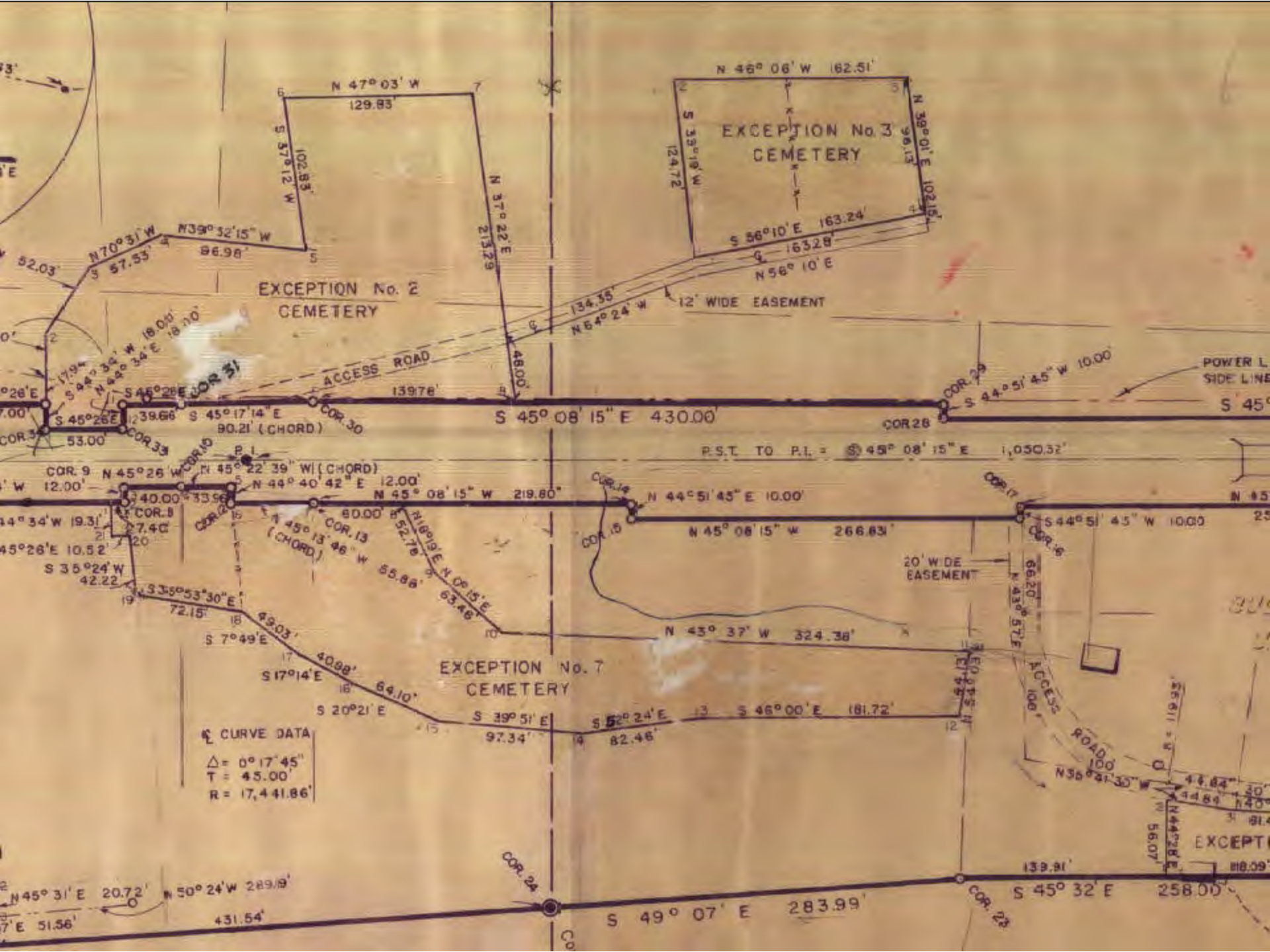
PLAT OF
ROSS ESTATE PROPERTY
On
DOUGLAS ISLAND, ALASKA

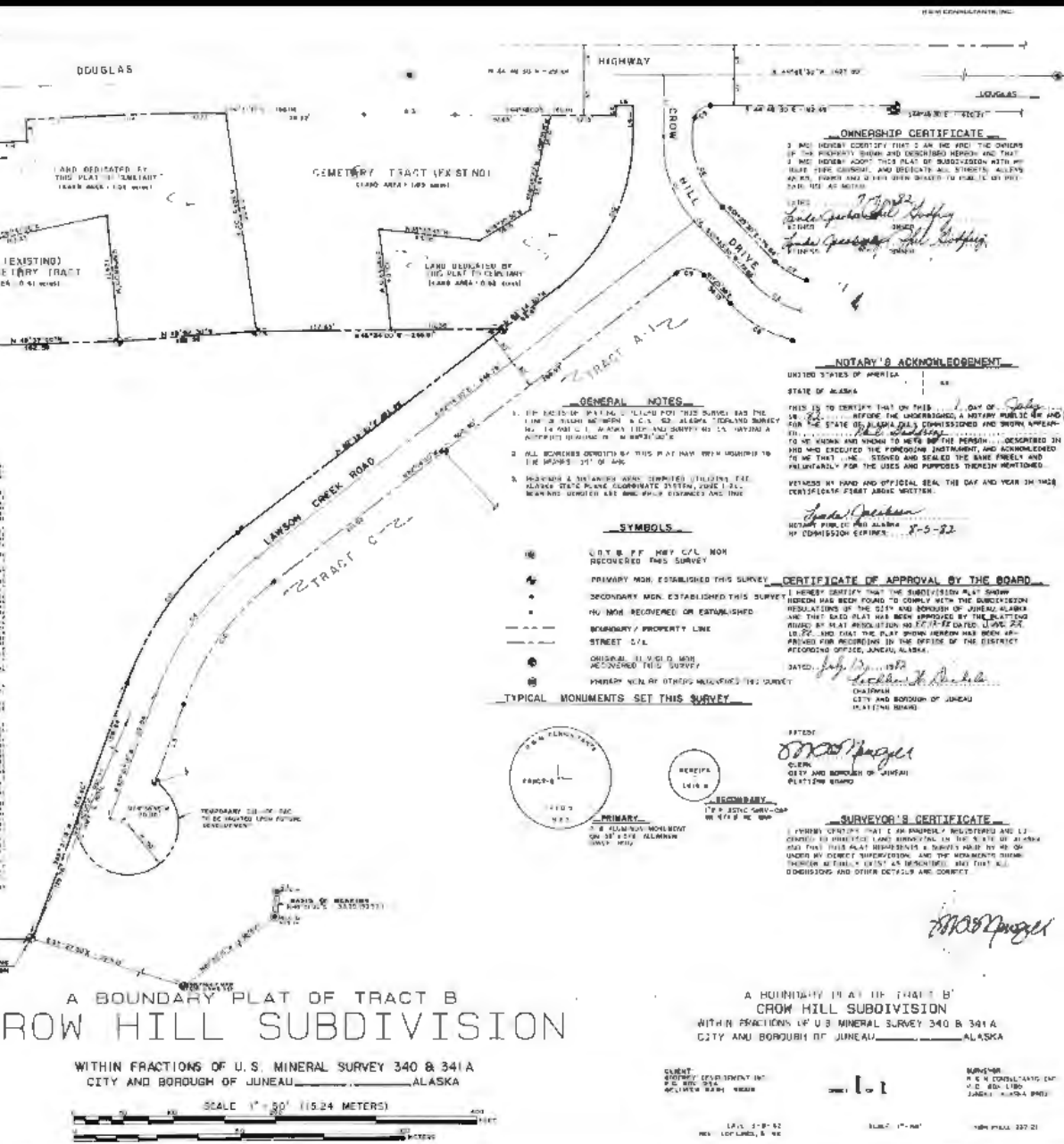
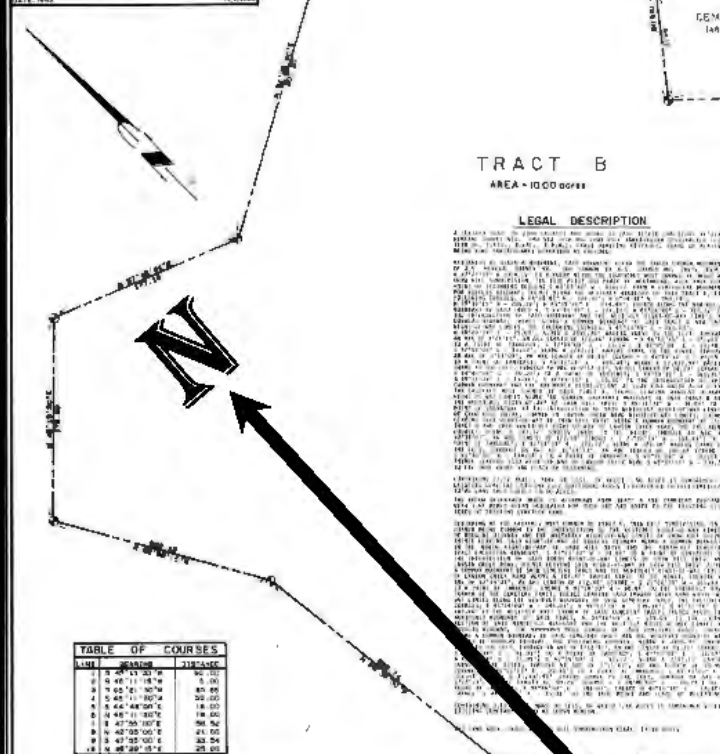
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SCALE: 1" = 100' 12560
TOWN & MORSE INC. - GEORGETOWN, MASS. 01930

801-1-20

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A BOUNDARY PLAT OF
CROW HILL SUBDIVISION
WITHIN FRACTIONS OF U. S. MINERAL
CITY AND BOROUGH OF JUNEAU.

CLIENT:
GODFREY DEVELOPMENT INC.
P. O. BOX 1954
BELLVIEW WASH. 98009

SHEET **I** OF



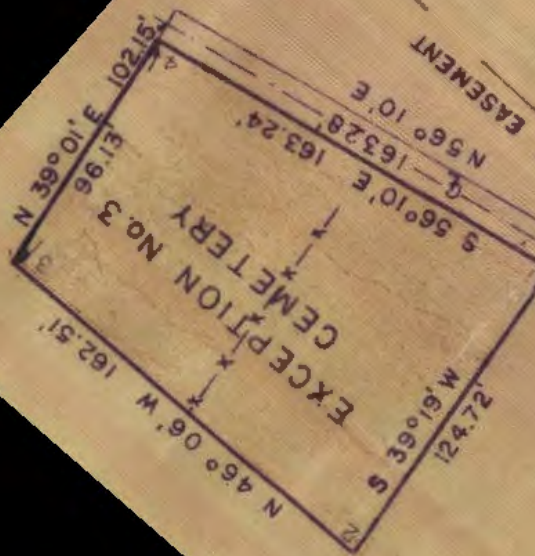
Ross
Estate

North
Godfrey

City

Catholic

South Godfrey



163.23' 71.00"E
(EXISTING)
CEMETERY TRACT
(AREA = 0.41 acres)

CEMETERY TRACT (EXISTING)
(LAND AREA = 1.09 acres)

LAND DEDICATED BY
THIS PLAT TO CEMETARY
(LAND AREA = 0.03 acres)

HIGHWAY

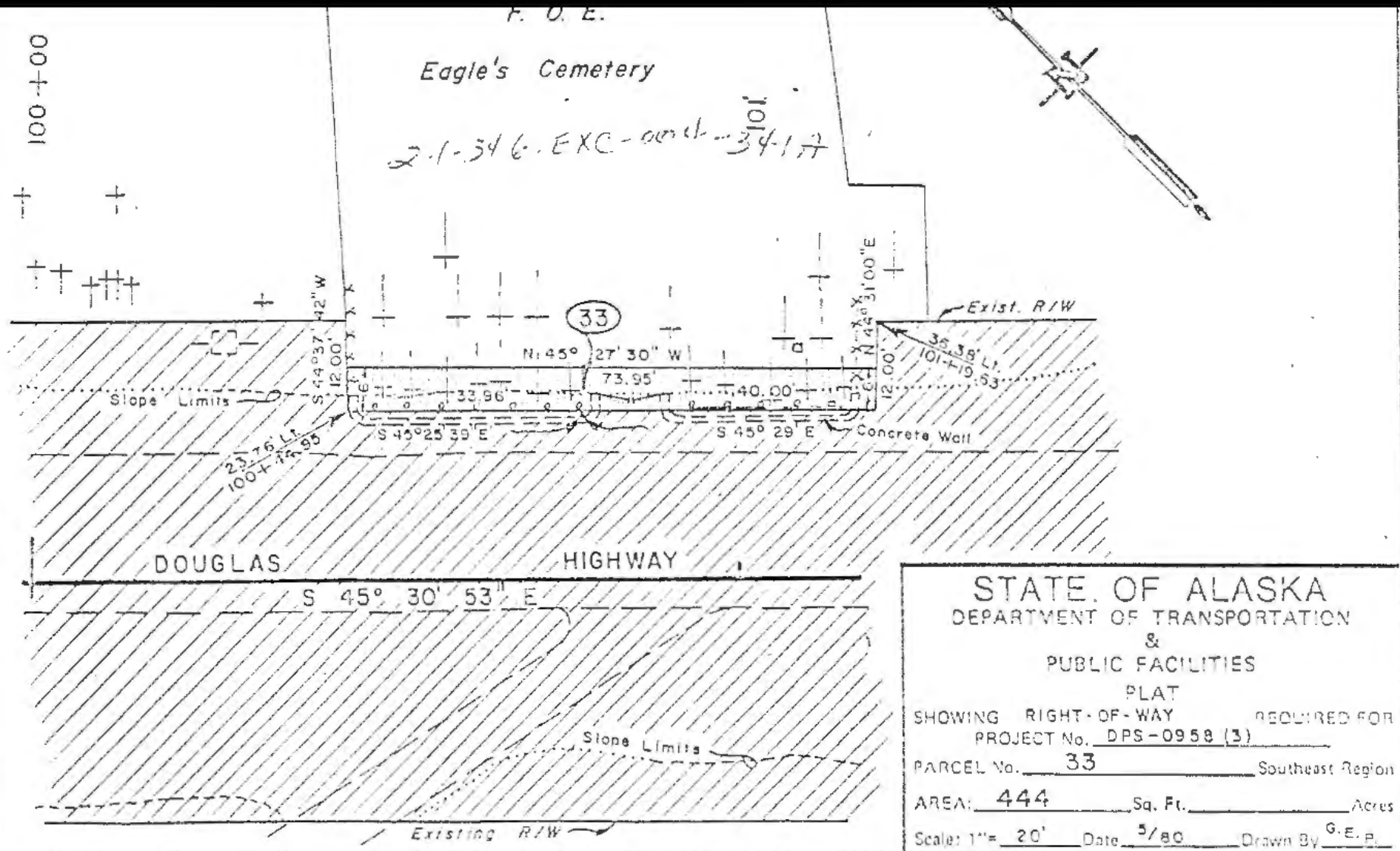


City

Eagles

Servian

1980 Highway Widening





Ross
Estate

North
Godfrey

City

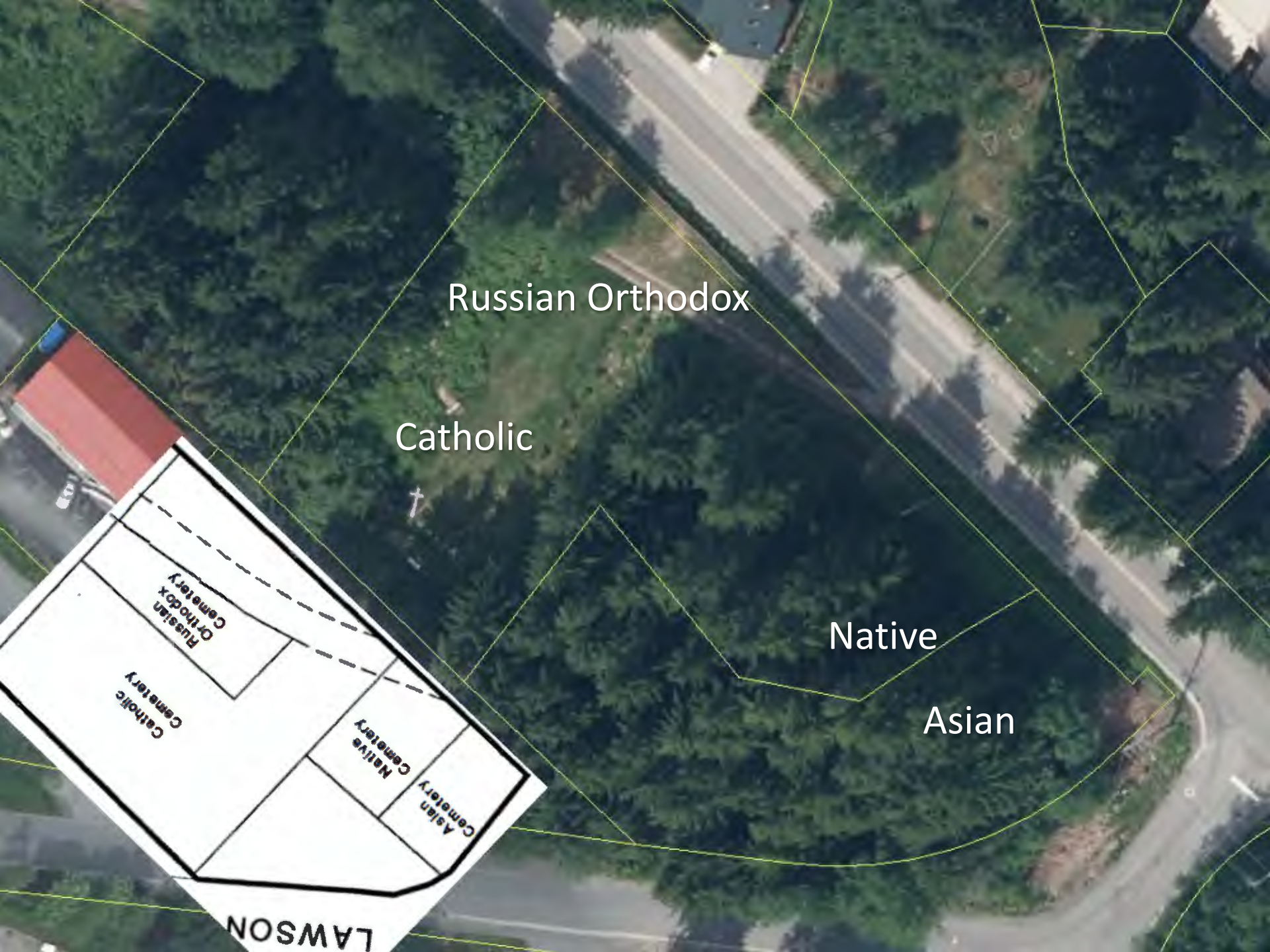
Catholic

South Godfrey

An aerial photograph of a property. A white solid line outlines a large, irregularly shaped area. A dashed white line runs diagonally from the bottom-left corner of the white boundary to the top-right corner, dividing the area into two sections. The top-left section is labeled 'Masons' and the bottom-right section is labeled 'Odd Fellows'. The property is mostly covered in dense green trees. To the top of the property is a patch of bare, light-colored ground. To the bottom-left is a residential area with houses and a street. To the bottom-right is more dense greenery.

Masons

Odd Fellows

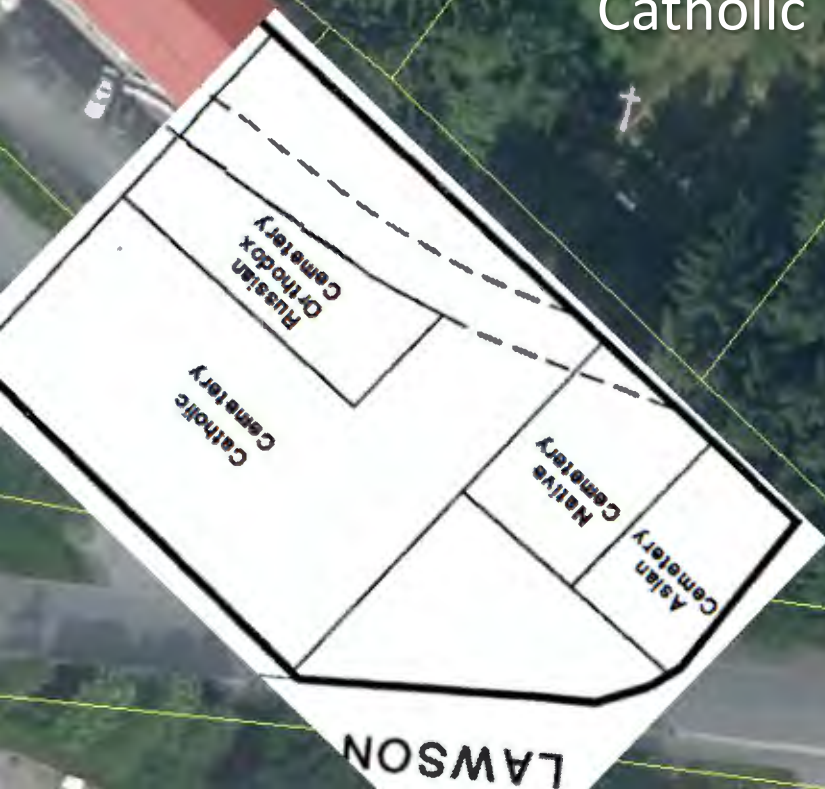


Russian Orthodox

Catholic

Native

Asian





Ross
Estate
(?)

North
Godfrey
(CBJ?)

City
(?)

Eagles
(Sanford)

Catholic
(Catholic Bishop?)

Servian
(Private)

South Godfrey
(CBJ?)